

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KENNY BARCLAY,  
*Plaintiff,*

v.

MP TECHNOLOGIES, LLC AND  
KYLE ANDREW HICKS  
*Defendants.*

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CIVIL ACTION NO. 4:18-cv-433

**DEFENDANTS MOTION TO QUASH PLAINTIFF'S NOTICE OF INTENTION TO  
TAKE THE ORAL AND VIDEOTAPED DEPOSITION OF THE CORPORATE  
REPRESENTATIVES OF DEFENDANT MP TECHNOLOGIES**

TO THE HONORABLE JUDGE OF THIS COURT:

Defendants, MP Technologies, LLC and Kyle Andrew Hicks (hereinafter referred to collectively as "Defendants"), file this Motion to Quash the Oral and Videotaped Deposition of the Corporate Representative of Defendant MP Technologies, LLC and would respectfully show this Honorable Court as follows:

1. Plaintiff served his Notice of Intention to Take Oral and Videotaped Deposition of the Corporate Representative of Defendant MP Technologies, LLC on April 16, 2019. A true and correct copy of the deposition notice is attached as Exhibit A. The deposition is noticed to occur on May 9, 2019 at 1:00 p.m.

2. Counsel for Defendants is not available on May 9, 2019, the date selected by counsel for Plaintiff for this deposition. Rather, Plaintiff unilaterally sent Notice of this deposition without confirming that counsel for Defendants was available for the deposition as noticed. Therefore, counsel for both parties did not agree on a mutually convenient date and time for the deposition of the Corporate Representative of Defendant MP Technologies, LLC.

3. Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Defendants request that Plaintiff's Notice of Intention to Take Oral and Videotaped Deposition of the Corporate Representative of Defendant MP Technologies, LLC be quashed, and for a protective order on the grounds that the date for the deposition was chosen unilaterally by Plaintiff and counsel for Defendants is unavailable on the date chosen. Furthermore, Defendants respectfully request the deposition stayed until counsel can agree on a mutually convenient date, time, and location for the deposition, or this Court can determine Defendants' motion to quash.

4. This motion is being filed within three business days of the date the deposition notice was served. Therefore, this motion automatically stays the deposition of K the Corporate Representative of Defendant MP Technologies, LLC until the motion can be determined by the Court.

5. Defendants' counsel conferred with counsel for Plaintiff to resolve this dispute. However, no agreement could be reached as no response was received from counsel for Plaintiff.

#### **PRAYER**

For the foregoing reasons, Defendants, MP Technologies, LLC and Kyle Andrew Hicks, respectfully request that the Court grant their Motion to Quash the Oral and Videotaped Deposition of the Corporate Representative of Defendant MP Technologies, LLC and that same remain quashed until a mutually convenient date, time, and location can be agreed to by the parties. Defendants seek all other and further relief, both special and general, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

GALLOWAY, JOHNSON, TOMPKINS, BURR & SMITH  
A Professional Law Corporation

By: //s// Branch M. Sheppard

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**ATTORNEY FOR DEFENDANTS,  
MP TECHNOLOGIES, LLC AND  
KYLE ANDREW HICKS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by and through the Court approved electronic filing manager via email to participating parties and/or via hand delivery, facsimile, certified mail return receipt requested and/or U.S. First Class Mail to all known counsel of record on this 18<sup>th</sup> day of April 2019, as follows:

**Via CM/ECF**

Kurt B. Arnold

J. Kyle Findley

Kala F. Sellers

Adam D. Lewis,

John Bengamin Birely

ARNOLD & ITKIN LLP

**Attorneys for Plaintiff**

//s// Branch M. Sheppard

Branch M. Sheppard